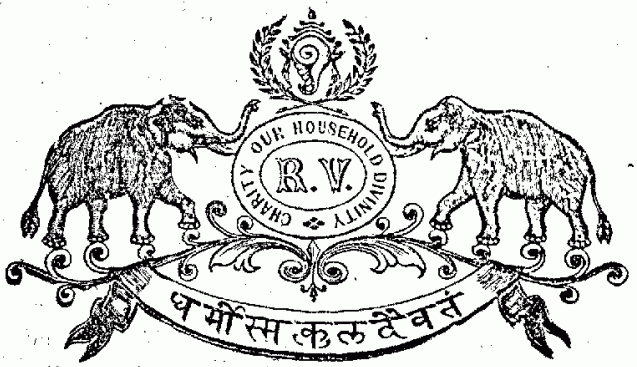
TRAVANCORE GOVERNMENT GAZETTE SUPPLEMENT.

Tuesday, 21st June, 1904.



Abstract Proceedings of the Travancore Legislative Council.

The Council met in the Dewan's room, Public Offices, at 1 P. M., on Saturday the 11th June 1904. / 29th Vycausy 1079.

PRESENT.

V. P. Madhava Rao Esquire, C. I. E.,
Dewan ... ...*Presiding.*

V. Nagam Aiya Esquire, B. A., F. R. H. S.
A. Govinda Pillai Esquire, B. A., B. L., F. M. U.
T. Rajaram Row Esquire, B. A.
V. I. Kesava Pillai Esquire, M. A.
A. J. Vieyra Esquire, B. A.
K. K. Kuruvila Esquire, B. C. E.
E. Ramier Esquire.

Secretary.—I beg to announce that the Bill for the Prevention of Cruelty to Animals and the Explosives Bill, passed by the Council on the 27th February 1904, received the assent of His Highness the Maharajah on the 3rd March 1904 and have become law as Regulations IV and V of 1079 respectively.

CHARITABLE ENDOWMENTS BILL.

Mr. Nagam Aiya.—I beg to move that Rule 33 be suspended to enable me to formally introduce this Bill. It has already been published in the Gazette, but as sufficient time has not elapsed since the date of publication, I think that the discussion of the principle may be deferred to the next meeting.

The Council having suspended the Rule, Mr. Nagam Aiya introduced the Bill and in doing so said:—

In introducing this Bill, I beg to offer a few remarks. It is a simple measure and very concisely set forth on the lines of the British Indian Act VI of 1890. As soon as His Highness the Maha Rajah was pleased to give his assent to the Hindu Religious Endowments Bill and include it in the statute book as Regulation III of 1079, it became necessary to supplement it by a Regulation for the protection of the valuable Charitable Endowments in Travancore, for which purpose I sought and obtained the permission of the Council at its last sitting. I may be permitted to

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premise here that to the Hindu mind every form of charity is part and parcel of religion. To speak of endowments for secular charities as distinguished from religious endowments is a distinction unknown to ideas of Hindu orthodoxy. The different treatment now accorded to secular charities whether by Hindu, Mahomedan or Christian founders is, therefore, done more out of deference to the course of legislation in British India rather than in accordance with popular belief.

The Council will notice that so far as the policy of religious neutrality on the part of Government is concerned, it is very strictly observed in the Bill. Where there is the least connection between a Charitable Endowment, say, by a Mahommedan or Christian donor, and his religious persuasion, the Bill scrupulously eschews that endowment from its scope. In this respect, it is much narrower in range than the British Indian Act on which it is based. For, the British Indian enactment is applicable "to trusts for Charitable purposes but not to trusts exclusively for the purpose of religious teaching or worship"—making it clear that a *partly religious trust* will be brought under the law, while under our Bill, the scope is clearly defined "not to include a purpose which relates either wholly or in part to religious teaching or worship", in order to eliminate all possible chance of misconception on the score of religion by any orthodox Mahommedan or Christian subject of His Highness the Maha Rajah. This scrupulous exclusion of such trusts is, I know, a defect in the Bill, as all Charitable Endowments of the State are not covered by the Bill. But it is, in my opinion, safer to omit some endowments and own the defect rather than attempt at an exhaustive inclusion of *all* charities in the Bill, unless the followers of the different religious faiths themselves come forward and ask for such a comprehensive piece of legislation. One could not be too careful in a matter of this kind. We emphasized this fact in the report of the Select Committee on the Hindu Religious Endowments Bill where we observed:—"We have, in one direction, narrowed the scope of the Bill, by excluding from it all trusts relating to *purely secular charitable* endowments, and have accordingly altered the title of the Bill from 'A Regulation to provide for the better management of certain trusts relating to Hindu Religious and Charitable Endowments in Travancore' to 'A Regulation to provide for the better management of certain Hindu Religious Endowments in Travancore'. We are of opinion that a separate Bill on the lines of the British Indian Act VI of 1890 should be introduced, giving legislative protection to all purely secular charitable endowments, without reference to the creed of the founders or beneficiaries of the endowments.....In the case of Hindu Charitable Endowments, it is often difficult to distinguish those that are partly religious from those that are purely secular. We mean that only such Charitable Endowments as are purely secular should be taken out of the operation of this Bill; all other Charitable Endowments which have a religious basis or connection, be it ever so slight, are intended to be covered by it."

The necessity for this Bill will be readily admitted by all those who know the large number of charitable endowments in Travancore and their vast wealth. I dwelt at length on this point in my first speech on the Hindu Religious Endowments Bill delivered before this Council on the 2nd December 1899. It is not necessary therefore to go over the same ground again.

I will briefly refer to the provisions of the Bill.

The main object of the Bill is secured by section 3, which provides for Travancore an officer who is a Corporation Sole corresponding to the Official Trustees of Charitable Funds in England and to the Treasurer of Charitable Endowments in British India. The Officer so appointed will be a bare trustee and will have absolutely nothing to do with the administration of the property (Sec. 8). He will be in charge of the income of the endowments which will be handed over to the persons administering them (Sec. 9). The object of the vesting of all Charitable property in such an Officer by the name of his office as a Corporation Sole is to secure the holding of such property by some one always present and to avoid the inconvenience of appointing a new trustee on the retirement or death of any incumbent of the Trust. Section 4 empowers the Dewan to make vesting orders on application and also defines what securities for money shall be so vested by him. Section

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5 empowers the Dewan to settle a scheme for the administration of any property vested or to be vested in the Treasurer of Charitable Endowments; also to modify the scheme, or substitute another scheme instead, and such a scheme shall not be questioned in any Court regarding the administration of the property to which the scheme relates. Section 6 defines who shall apply for a vesting order by the Dewan. Section 7 enables the Dewan, on complaints made by any person interested in a Charitable Endowment, to order the vesting of the property of the Endowment in the Treasurer of Charitable Endowments and settle a scheme for its administration and enjoins further that no action shall be taken by him under this section except after a full enquiry. Section 9 requires the Treasurer of Charitable Endowments to keep a list of all properties vested in him and an abstract of all accounts and cause them to be published in the Government Gazette not less than once a year. This is a very important provision for the satisfactory management of public charities. A similar provision has been inserted in the Hindu Religious Endowments Regulation III of 1079 and the want of it, it is said, is one reason which has nullified the beneficial intentions of the British Indian Government in regard to the Hindu Religious Institutions of British India governed by Act XX of 1863. Section 10 defines the functions and powers of the Treasurer. Section 12 enables the Dewan to frame forms and make rules for the purpose of carrying into effect the provisions of this Regulation. Section 13 indemnifies all *bona fide* action taken by Government or Treasurer under this Regulation. Section 14 provides that the right of remedy reserved to the public by section 511 of the Civil Procedure Code (Regulation II of 1065 M. E.) shall continue.

I will conclude with the remarks of the Hon'ble Sir A. Scoble which he made during the course of the discussion on this Bill in the Viceregal Council. He said:— "It follows that the provisions of the Bill may apply to trusts for purposes partly charitable and partly embracing Religious Teaching; but I see no objection to this so long as the Treasurer is a bare Trustee or custodian of the Trust-property and the application of the Bill to a Charitable Endowment is dependent on the consent not only of the parties interested in the Trust, but of the local Government also. The necessity for this two-fold consent provides in my opinion every necessary safe-guard against an improper use of the Bill that the most orthodox Hindu or Mahommedan or (I may say) Christian could require." As already pointed out, the Bill before this Council has provided a further safe-guard by eschewing from its scope all Charitable Endowments which have the least colour of religious teaching or worship connected with them, thus avoiding even the appearance of any interference with religious feelings of any kind. I trust the followers of the different religious creeds in Travancore will see in this piece of legislation special consideration shown to their feelings in the action proposed by this Hindu Government. The Bill, it may be added, is, in the main, intended to be only a permissive one and Government will not make a vesting order or frame a scheme for the administration of any charitable Trust except on application or complaint for that purpose and may, if it sees fit, decline to take any action. With these remarks, I beg to move that the principle of the Bill be taken up for consideration on a future day.

Seconded by Mr. Ramier.

The motion was put and agreed to.

BILL TO AMEND REGULATION VI OF 1073.

Mr. Govinda Pillai:—I beg to present the Report of the Select Committee on this Bill. The Report and the amended Bill have been duly published in the Gazette and I beg, therefore, to move that the Bill be taken up for consideration.

Seconded by Mr. Nagam Aiya.

The motion was put and agreed to.

Mr. Ramier.—I beg to propose that the following be substituted for section II of the Bill:—

"Whenever any moneys, documents or other properties which were in the possession of a public servant in his capacity as such public servant and which such

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